

THE FIFTH DAY.

25th February 1914.

The Assembly met again at 11 A. M. on Wednesday, the 25th February 1914.

LEGISLATION (Continued).

Certain matters connected with the Jenmi and Kudiyan Regulation.

The Jenmi Members of the Assembly, *Messrs. Thirivikramar Vasudevar* (Member, Nominated), *Narayanar Janardanan* (Member, Jenmi, Trivandrum Division), *Kesavar Vasudevar* (Member, Jenmi, Padmanabhapuram Division), *Narayanar Kadambar Namburipad* (Member, Jenmi, Kottayam Division) and *Vasudevan Damodaran Namburi* (Member, Nominated) presented a joint memorandum, containing their proposals regarding the Jenmi and Kudiyan Regulation, V of 1071; and Mr. *Thirivikramar Vasudevar* read the same. The proposals were the following:—

(1) To any impartial observer it would be quite clear that, prior to 1042 M. E., the Jenmies had absolute rights over their *jenmom* lands and that those rights were unjustly taken away by the Royal Proclamation of 1042. It was not found possible to enact a law in British Malabar or Cochin similar to the Proclamation. Since their absolute rights had been denied to the Jenmies, the Kudiyan could not have a legitimate complaint or grievance, if the Regulation should be modified in any way favorable to the Jenmies in other respects.

(2) The Regulation should be modified so as to make the *jenmom* lands redeemable at the pleasure of the Jenmies. An Improvement Act, as in Malabar, should also be enacted for regulating the valuation of improvements in *jenmom* lands. They knew that the change proposed was not at once possible; but it was their hope that it would become an accomplished fact in due course of time, if not in the immediate future.

(3) As a result of their repeated representations in the Assembly, the Government had promised an enquiry as to the need for amendments in the Regulation, and they had also, after a supposed enquiry, decided in G. O. No. J. 3,485, dated the 23rd July 1911, that no change was called for. The officers whom the Government consulted in the matter made no enquiry whatever, but their reports were their individual views. A Commission, comprising also a few Jenmies selected by the Jenmi Maha Sabha, should be appointed to make a thorough investigation into the whole question.

(4) Section 7 required that the notice of demand upon the Kudiyan for arrears of *michavaram* &c. should be made through the Munsiff's Court. The provision was inconvenient. A registered notice should suffice in such cases. If, even after such notice, the Kudiyan failed to pay up the arrears, it should be competent to the Jenmi to send the Kudiyan a value-payable-receipt for the amount due, and also to take steps to redeem the holding leased on *pattom* in the event of three such receipts being refused by the Kudiyan.

Clause (c) of the Section and the Explanation thereunder laid down that a denial of the Jenmi's title under a mistake of fact or law was not "wilful denial". The Section enabled the Kudiyan to cause further loss to the aggrieved Jenmi in the suit for getting redress against acts of waste or denial of the Jenmi's title by the Kudiyan. The words "wilful denial of Jenmi's title" might be retained and the rest of the Clause and the Explanation omitted.

(5) Section 9 contained two restrictions, *viz.*, (1) that the first hearing of the suit should not be fixed "within three months from the date of the service of the original summons in the suit" and (2) that forfeiture of the Kudiyan's right should not be decreed if, at the first hearing, he paid into the Court the arrears due, with interest

and costs. The restrictions seriously affected the *prompt* payment of the Jenmi's dues, for which the threat of forfeiture of the Kudiyan's right was necessary.

(6) *Section 10* laid down that, in decrees for ejectment of a Kudiyan for intentional waste, the Courts should fix a time for his paying the compensation to the Jenmi and for remedying the waste, and that the decree should not be executed if the Kudiyan satisfied the Court's last order. It was hard that the Jenmi should be debarred from executing a decree, after having obtained it at a heavy cost. It betrayed a labour-d attempt at safeguarding the rights of the Kudiyan, even after his fault had been proved. The Section should be expunged.

(7) *Section 12* permitted the Kudiyan to surrender the holding and claim the *kanom* amount at the end of twelve years from the date of *kanapattom* or of its last renewal. Naturally, the Kudiyan would ask for the *kanom* amount only if it was more than the value of the holding. The value itself would depend upon the way in which he had improved the holding during the time it was in his possession. The Section was wholly one-sided and it completely ignored the interests of the Jenmi. The Section should be either omitted or suitably modified so as to safeguard the interests of the Jenmi also.

(8) *Section 14*.—The proviso to the Section precluded the Jenmi from enhancing the *michavaram* and levying *ettartham* at one and the same time, without the consent of the Kudiyan. The increase of *michavaram* and the levy of *ettartham* was possible only at the time of renewal of the *kanom*. So that, under the proviso, the Jenmi would have to wait for 24 years to get his legitimate dues under both the items. The proviso was very injurious to the Jenmi's interests and should be omitted.

(9) *Section 17 (c)* appeared to prescribe thirteen years for the payment of renewal fees, while, under *Section 11*, a renewal of *kanoms* could be effected on the expiry of twelve years. The two sections were mutually inconsistent. Clause (c) should be omitted.

(10) *Section 20, sub-section (4)* provided for the cost of stamp and registration of *kanom* deeds being borne by the Kudiyan, and of the counterparts or *ky-chits* by the Jenmi, unless there was an express contract to the contrary. The practice was for the Kudiyan to bear the cost under both heads. The Section should be modified so as to accord with the practice obtaining in the country.

(11) *Section 21* declared that the Jenmi was not entitled to claim any enhancement of the *pattom* assessment on any *kanom* lands except under certain conditions. The provision had been made at a time when the productive power of the lands was poor and the methods of cultivation were not on any improved lines. Those conditions had since changed for the better. The productive power of land had considerably increased. The Section should be changed so as to entitle the Jenmi to claim one-fourth of the profit as *pattom*.

(12) *Section 23* limited the *ettartham* claimable by the Jenmi to six times the enhanced *michavaram*. In reality, the *arthom* for the holding, if given on an ordinary mortgage, was several times more. It should therefore be open to the Jenmi to fix the *ettartham* in proportion to the interest paid on the *arthom*.

(13) *Section 26*.—Under the Section, the purchaser of the *jennom* right was not entitled to the customary dues, but had to commute them into an annual payment. The effect was to reduce the market value of the *jennom* right. All the rights of the Jenmi should accrue to the transferee. The Section should be suitably modified.

(14) *Section 27* stipulated that, in cases where the *michavaram* and other dues could not be paid to a Jenmi or would not be accepted by him, the amount should be deposited by the Kudiyan in the Court. The provision gave room for much contention that the dues were refused or that they were not tendered. Therefore, in such cases, the Kudiyan should be required to remit the amount to the Jenmi by money order, and, on refusal of the money order, to deposit the dues in Court. The necessary alterations should be made in the Section.

(15) *Section 33*.—In suits for the recovery of arrears of *michavaram*, the Section gave to the Munsiffs small cause jurisdiction up to Rs. 30 only. Their summary jurisdiction should be raised to Rs. 100, as in the case of ordinary suits.

(16) *Section 36* exempted plaints from court fee, only if the suit was for the recovery of *michavaram* for one year, and in other cases, court fee had to be paid. In 75 per cent of the cases, the *michavaram* would be nominal such as an edangali of paddy or a chackram. The Section should be changed so as to make court fee leviable only in suits the value of which exceeded Rs. 100.

(17) *Section 44* prescribed 50 years as the period of limitation for suits for the recovery of the Jenmi's dues. There was no such time-bar in the case of leases for ordinary lands. The Section held out a premium for non-payment of Jenmi's dues. It should therefore be deleted altogether or the period of limitation raised to 100 years.

Dewan's reply.—Noted.

IV.—PUBLIC WORKS (*Contd.*)

62. The necessity for the removal of the cluster of protruding rocks at Kollakadavu on the Kulakkada river.

Mr. Kanakku Nilakantan Raman (Member, Mavelikara taluk) said that, at Kollakadavu in the Kulakkada river, about three miles from the town of Mavelikara, there were huge clusters of rocks protruding on both sides of the river, about 330 feet long, 25 feet broad and 30 feet high. There were also similar rocks in the bed of the river at the locality, obstructing the current. The river was very narrow at the place and the current fearfully strong. Navigation through the river was therefore very dangerous. During the monsoons, the river overflowed and inundated several thousands of acres of paddy lands on both sides. Cultivation suffered considerably and the danger to life was serious. He therefore requested that early steps might be taken to remove the obstruction.

Dewan's reply.—Noted.

63. The necessity for improving and metalling the road from Thamarakulam to Oachira and thence to the Vallikavu Satrom.

Mr. Kanakku Nilakantan Raman (Member, Mavelikara taluk) said that the village roads from the Thamarakulam market—one leading to Oachira and the other to Karunagappalli—were constructed about the year 1042 M. E. Ever since the collapse of the bridges on the roads, no attention had been paid to the roads and much difficulty was being experienced by the people. The Member requested that one of the village roads might be improved and metalled up to the Vallikavu Satrom on the backwater and the bridges on the road also repaired.

Dewan's reply.—Noted.

64. The necessity for constructing a bridge over the Kulakkada river on the Mavelikara-Pulikeezh road.

Mr. N. G. Parameswaran Pillai (Member, Mavelikara taluk) said that, as the outcome of the repeated prayers of the people of the taluks of Mavelikara and Thiruvalla, the construction of a road from Mavelikara to Pulikeezh was sanctioned during the time of that large-hearted Dewan Mr. V. P. Madhava Rao. But it was during the present regime that the road was actually laid and the people allowed to enjoy the incalculable benefits from it. Such and similar boons conferred on the country and its people through the Sri Mulam Popular Assembly were by no means few or small. The importance of such an institution, and the greatness of its President, the present Dewan, who was ever ready to attentively listen to the grievances of the people and to afford the necessary relief, were being known by those who ought to know them.